IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

ORDER
IN
S.B. Civil Second Appeal No.472/2002

Prabhu Lal S/o Shri Mangi Lal
...defendant-appellant
Versus
Gattu Lal (deceased) through L.Rs.
Shanti Bai & Another
...plaintiff-respondents
AND
Nagar Palika, Aklera
...defendant-respondent

Date of Order ::: 27.10.2006

Present
Hon'ble Mr. Justice Narendra Kumar Jain

Shri M.C. Jain, Counsel for defendant-appellant
Shri B.L. Mandhana and
Shri J.K. Singhi, Counsel for plaintiff-respondents
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By the Court:-

Heard learned counsel for the parties.

The plaintiff-respondent filed a suit for permanent injunction, which was dismissed. However, on an appeal filed by the plaintiff, the learned first appellate court decreed the suit and restrained the defendant no.1-appellant from raising any construction over the disputed 'Chabutari'. The learned first appellate court has recorded a finding that the disputed 'Chabutari' belongs to plaintiff and there is a 'patta' issued by Gram Panchayat in favour of the

plaintiff. The learned counsel for the appellant does not dispute that the 'patta' has been issued in respect of the 'Chabutari' in favour of the plaintiff.

After considering the submissions of learned counsel for the appellant I find that the judgment and decree passed by the first appellate court is based on evidence and there is no illegality or perversity in the judgment of the learned first appellate court. The finding of the first appellate court relates to question of fact, which cannot be interfered with by this court in second appeal under Section 100 of the C.P.C.

No substantial question of law is involved in this second appeal and the same is accordingly dismissed at admission stage itself with no order as to costs.

(Narendra Kumar Jain) J.

//Jaiman//